

**BOARD OF APPEALS
for
MONTGOMERY COUNTY**

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Case No. S-597-A

**PETITION OF DR. H. STEVEN STEINBERG
By VCA VETERINARY REFERRAL
ASSOCIATES ANIMAL HOSPITAL**

OPINION OF THE BOARD

(Opinion Adopted February 22, 2006)
(Effective Date of Opinion: May 3, 2006)

Case No. S-597-A is an application to modify an existing special exception for a veterinary hospital to allow: **1)** An increase in the number of support staff to forty on site at any one time and in the number of veterinarians to twenty-two; **2)** Hours of operation from 6:30 am to 8:30 pm, Monday through Saturday. Certain employees to remain at the hospital twenty-four hours a day, seven days a week to accommodate emergency care for animals; **3)** Correction of the current property size to reflect the MD Route 28 road widening; **4)** An updated site plan which reflects the current on-site conditions including (a) Parking: seventy-four spaces plus three handicap spaces; (b) Fencing: a six foot board-on-board wooden fence on the southeastern portion of the property, as security for the x-ray building; (c) Existing and Proposed Signage; **5)** Updated landscape and lighting plans which reflect current conditions; **6)** Transfer of the special exception to H. Steven Steinberg as the sole holder.

The subject property is Lot P2, Block V, located at 15021 Dufief Mill Road, Gaithersburg, Maryland, 20878, in the R-200 Zone.

The Hearing Examiner for Montgomery County held a public hearing on the application on January 9, 2006, and on January 31, 2006 issued a Report and Recommendation for approval of the modification.

Decision of the Board:

Modification **Granted** Subject to
Conditions Enumerated Below.

The Board of Appeals considered the Hearing Examiner's Report and Recommendation at its Worksession on February 22, 2006. After careful consideration and review of the record in the case, the Board adopts the Hearing Examiner's Report and Recommendation and **grants** the requested modification subject to the following conditions:

1. The Board recognizes VCA Referral Associates Animal Hospital, Inc., as lessee of the subject property, operator of the veterinary hospital on site and the Petitioner in this case, authorized by the special exception holder, H. Steven Steinberg, V.M.D., to bring the instant modification petition.
2. The Petitioner shall be bound by all of its testimony and exhibits of record, and by the testimony of its witnesses and representations of counsel identified in the Hearing Examiner's Report and in this opinion.
3. All terms and conditions of the approved special exception (S-597) shall remain in full force and effect, except as modified by the Board as a result of this and previous Modification Petitions.
4. The hours when the facility is open to the public for drop-off and pick up of animals will be limited to 6:30 a.m. to 8 p.m., Monday through Saturday, except in emergencies. Animals may be seen by appointment only, except in emergency situations. Scheduled appointment hours will continue to commence at 8:00 a.m., and a written log of all appointments and drop-in and emergency client activities must be kept, and be available for inspection by County authorities. The facility will be staffed after office hours (*i.e.*, 24 hours a day, seven days a week) solely to accommodate emergency situations and to provide care for the animals who must remain overnight for medical purposes.
5. Boarding of animals as a kennel service is prohibited. Only animals receiving medical treatment may reside at the facility.
6. All litter and animal waste must be contained and controlled on the site.
7. Petitioner shall be permitted to have a maximum of sixty-two (62) employees (including all veterinarians and support staff employees) on site at any one time, provided that the number of veterinarians on site at any one time does not exceed twenty-two (22).
8. Petitioner must maintain 71 parking spaces on site, which number includes three spaces designated for the handicapped.

9. Existing 25 foot tall poles and double flood lights must be removed, as shown on the Landscape and Lighting Plan (Exhibit 18(a)), and in accordance with the specification of the Historic Preservation Commission (HPC). Replacement lighting for the removed 25 foot poles lights will consist of four 12 foot pole lights per HPC approval and the revised Landscape and Lighting Plan.
10. Existing light fixtures on the silos and barn must be removed and replaced or painted to match the silos and barn in color, and replaced or painted fixtures must be reviewed and approved at the HPC staff level.
11. Petitioner must survey and stabilize the unused historic barn on the Petitioner's property, per the HPC's requirements.
12. Petitioner may erect a second sign to replace the sign which was removed to allow widening of MD Route 28; however, Petitioner must first obtain a permit for such sign from the Department of Permitting Services (and if necessary, a sign variance), and copies of both that sign permit and the one covering the existing sign must be filed with the Board of Appeals. The new sign should match the existing sign in size and design, unless DPS determines otherwise.
13. Petitioner must comply with all applicable Federal, State and local regulations regarding safe storage and use of the x-ray equipment on the site.
14. Petitioner must obtain and satisfy the requirements of all licenses and permits, including but not limited to building permits and use and occupancy permits, necessary to occupy the special exception premises and operate the special exception as granted herein. Petitioner shall at all times ensure that the special exception use and premises comply with all applicable codes (including but not limited to building, life safety and handicapped accessibility requirements), regulations, directives and other governmental requirements.
15. The resolution granting removal of Kenneth R. Cowell, D.V.M., whose current whereabouts are unknown, as a co-holder of the special exception will be reconsidered if and when Kenneth R. Cowell, D.V.M. appears and requests such reconsideration in writing.
16. Petitioner's request to add a leased area south of the site for walking animals is denied because the proposed lease area does not meet the 200 foot setback requirements contained in Zoning Ordinance §59-G-2.32(b)(2). Within 10 days of this Resolution, Petitioner must submit a corrected site plan removing the proposed lease area for walking animals and showing any previously approved area for animal exercise, if it still

exists. Nothing in this Resolution affects Petitioner's right to walk animals in any other area, on site, previously approved by be the Board for that purpose. If Petitioner does so, only one animal at a time may be walked outdoors, and such animal walking may take place only between the hours of 8:00 a.m. and 6:00 p.m.

On a motion by Wendell M. Holloway, seconded by Angelo M. Caputo, with Donna L. Barron, Caryn L. Hines and Allison Ishihara Fultz, Chair, in agreement, the Board adopted the following Resolution:

BE IT RESOLVED by the Board of Appeals for Montgomery County, Maryland that the opinion stated above is adopted as the Resolution required by law as its decision on the above-entitled petition.



Allison Ishihara Fultz
Chair, Montgomery County Board of Appeals

Entered in the Opinion Book
of the Board of Appeals for
Montgomery County, Maryland
this 3rd day of May, 2006.

Katherine Freeman
Executive Director

NOTE:

Any request for rehearing or reconsideration must be filed within fifteen (15) days after the date the Opinion is mailed and entered in the Opinion Book (See Section 59-A-4.63 of the County Code). Please see the Board's Rules of Procedure for specific instructions for requesting reconsideration.

Any decision by the County Board of Appeals may, within thirty (30) days after the decision is rendered, be appealed by any person aggrieved by the decision of the Board and a party to the proceeding before it, to the Circuit Court for Montgomery County, in accordance with the Maryland Rules of Procedure.

